

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE MAY 7, 2013

**SENATE BILL**

**No. 571**

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**Introduced by Senator Price**

February 22, 2013

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An act to add and repeal Article 19 (commencing with Section 18891) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 571, as amended, Price. Income taxes: voluntary contributions: ~~Arts for Kids~~ *Keep Arts in Schools* Fund.

The Personal Income Tax Law authorizes taxpayers to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would authorize taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the ~~Arts for Kids~~ *Keep Arts in Schools* Fund, which is created by this bill. This bill would require that all moneys contributed to the fund pursuant to these provisions, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement and to the Arts Council for grants, as prescribed.

This bill would provide that these voluntary contribution provisions are inoperative on January 1 of the 5th taxable year following the taxable year the fund first appears on the tax return and repealed on December 1 of that taxable year. The bill would further provide that these provisions are inoperative for taxable years beginning on or after January 1 of the calendar year in which the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar

year will be less than \$250,000, or an adjusted amount for subsequent taxable years, and are repealed on December 1 of that calendar year.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 19 (commencing with Section 18891) is  
2 added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and  
3 Taxation Code, to read:

4  
5 Article 19. ~~Arts for Kids~~ *Keep Arts in Schools* Fund  
6

7 18891. (a) An individual may designate on the tax return that  
8 a contribution in excess of tax liability, if any, be made to the ~~Arts~~  
9 ~~for Kids~~ *Keep Arts in Schools* Fund established by Section 18892.

10 (b) A contribution shall be in a full dollar amount and may be  
11 made individually by each signatory on a joint return.

12 (c) A designation made under subdivision (a) shall be made for  
13 any taxable year on the original return for that taxable year, and  
14 once made shall be irrevocable. In the event that payments and  
15 credits reported on the return, together with any other credits  
16 associated with the taxpayer's account do not exceed the taxpayer's  
17 tax liability, if any, the return shall be treated as though no  
18 designation had been made. In the event that no designee is  
19 specified, the contribution shall, after reimbursement of the direct  
20 actual costs of the Franchise Tax Board for the collection and  
21 administration of funds under this article, be transferred to the  
22 General Fund.

23 (d) If an individual designates a contribution to more than one  
24 account or fund listed on the tax return, and the amount available  
25 is insufficient to satisfy the total amount designated, the  
26 contribution shall be allocated among the designated accounts on  
27 a pro rata basis.

28 (e) The Franchise Tax Board shall revise the form of the return  
29 to include a space labeled the ~~"Arts for Kids Fund"~~ *"Keep Arts in*  
30 *Schools Fund"* to allow for the designation permitted under  
31 subdivision (a). The form shall also include in the instructions  
32 information that the contribution may be in the amount of one  
33 dollar (\$1) or more and that the contribution shall be used by the

Arts Council for the allocation of grants to individuals or organizations administering arts programs.

(f) Notwithstanding any other provision, a voluntary contribution designation for the ~~Arts for Kids~~ *Keep Arts in Schools* Fund shall not be added on the tax return until another voluntary contribution designation is removed.

(g) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18892. There is hereby established in the State Treasury the ~~Arts for Kids~~ *Keep Arts in Schools* Fund to receive contributions made pursuant to Section 18891. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18891 to be transferred to the ~~Arts for Kids~~ *Keep Arts in Schools* Fund. The Controller shall transfer from the Personal Income Tax Fund to the ~~Arts for Kids~~ *Keep Arts in Schools* Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18891 for payment into that fund.

18893. All money transferred to the ~~Arts for Kids~~ *Keep Arts in Schools* Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller only for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) To the Arts Council, for allocation of grants to individuals or organizations administering arts programs for children in preschool through ~~8th~~ *12th* grade pursuant to subdivision (o) of Section 8753 of the Government Code.

(2) Funds made available to the Arts Council shall not be used for any purpose other than to provide grants as prescribed by this subdivision. Funds made available pursuant to this subdivision shall not be used by the Arts Council for administrative purposes, to reimburse its costs associated with administering grants, to further its programs, or for any purpose relating to its own operations.

18894. (a) Except as otherwise provided in subdivision (b), this article shall remain in effect only until January 1 of the fifth taxable year following the first appearance of the ~~Arts for Kids~~

1 *Keep Arts in Schools* Fund on the personal income tax return, and  
2 is repealed as of December 1 of that taxable year.

3 (b) (1) By September 1 of the second calendar year and each  
4 subsequent calendar year that the ~~Arts for Kids~~ *Keep Arts in*  
5 *Schools* Fund appears on the tax return, the Franchise Tax Board  
6 shall do all of the following:

7 (A) Determine the minimum contribution amount required to  
8 be received during the next calendar year for the fund to appear  
9 on the tax return for the taxable year that includes that next calendar  
10 year.

11 (B) Determine whether the amount of contributions estimated  
12 to be received during the calendar year will equal or exceed the  
13 minimum contribution amount determined by the Franchise Tax  
14 Board for the calendar year pursuant to subparagraph (A). The  
15 Franchise Tax Board shall estimate the amount of contributions  
16 to be received by using the actual amounts received and an estimate  
17 of the contributions that will be received by the end of that calendar  
18 year.

19 (2) If the Franchise Tax Board determines that the amount of  
20 the contributions estimated to be received during a calendar year  
21 will not at least equal the minimum contribution amount for the  
22 calendar year, this article is inoperative with respect to taxable  
23 years beginning on or after January 1 of that calendar year, and  
24 shall be repealed on December 1 of that calendar year.

25 (3) For purposes of this section, the minimum contribution  
26 amount for a calendar year means two hundred fifty thousand  
27 dollars (\$250,000) for the second calendar year after the first  
28 appearance of the ~~Arts for Kids~~ *Keep Arts in Schools* Fund on the  
29 personal income tax return or the adjusted minimum contribution  
30 amount adjusted pursuant to subdivision (c).

31 (c) For each calendar year, beginning with the third calendar  
32 year after the first appearance of the ~~Arts for Kids~~ *Keep Arts in*  
33 *Schools* Fund on the personal income tax return, the Franchise Tax  
34 Board shall adjust, on or before September 1 of that calendar year,  
35 the minimum contribution amount specified in subdivision (b) as  
36 follows:

37 (1) The minimum estimated contribution amount for the calendar  
38 year shall be an amount equal to the product of the minimum  
39 estimated contribution amount for the calendar year multiplied by  
40 the inflation factor adjustment as specified in subparagraph (A) of

1 paragraph (2) of subdivision (h) of Section 17041, rounded off to  
2 the nearest dollar.

3 (2) The inflation factor adjustment used for the calendar year  
4 shall be based on the figures for the percentage change in the  
5 California Consumer Price Index for all items received on or before  
6 August 1 of the calendar year pursuant to paragraph (1) of  
7 subdivision (h) of Section 17041.

8 (d) Notwithstanding the repeal of this article, any contribution  
9 amounts designated pursuant to this article prior to its repeal shall  
10 continue to be transferred and disbursed in accordance with this  
11 article as in effect immediately prior to that repeal.